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FM AMEMBASSY JAKARTA

TO RUEHC/SECSTATE WASHDC IMMEDIATE 0198

INFO RUEHZS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS PRIORITY

RUEHBJ/AMEMBASSY BEIJING 5442

RUEHBY/AMEMBASSY CANBERRA 3092

RUEHLM/AMEMBASSY COLOMBO 1330

RUEHKA/AMEMBASSY DHAKA 1300

RUEHNE/AMEMBASSY NEW DELHI 2273

RUEHUL/AMEMBASSY SEOUL 4951

RUEHKO/AMEMBASSY TOKYO 2541

RUEHWL/AMEMBASSY WELLINGTON 3116

RUEHHK/AMCONSUL HONG KONG 2991

RUEHPT/AMCONSUL PERTH 1161

RUEAIIA/CIA WASHDC

RHEFDIA/DIA WASHINGTON DC

RUEAWJB/DEPT OF JUSTICE WASHDC

RUEATRS/DEPT OF TREASURY WASHDC

RHEHNSC/NSC WASHDC

RHHJJPI/USPACOM HONOLULU HI

UNCLAS SECTION 01 OF 02 JAKARTA 001818

SENSITIVE

SIPDIS

DEPT FOR EAP, EAP/MTS, EAP/MLS, INL

INL FOR ROESS/BARCLAY

DEPT FOR EEB/IFD/OMA

DOJ/OPDAT FOR LEHMANN/ALEXANDRE/JOHNSON

MCC FOR LONGI

SINGAPORE FOR BAKER

TREASURY FOR M.NUGENT

NSC FOR E.PHU

E.O. 12958: N/A

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SUBJECT: KEY ANTI-CORRUPTION COURT'S MANDATE UP FOR RENEWAL  
IN LEGISLATURE

REF: A. JAKARTA 1815

[B. JAKARTA 1759](#)

[C. JAKARTA 865](#)

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**11. (U) SUMMARY:** President Yudhoyono sent a draft bill to re-authorize the Anti-Corruption Court to the Indonesian Parliament (DPR) on August 11. The DPR is slated to begin discussions of the draft soon. There are a couple of problematic issues that need to be addressed before the bill is passed. In addition, due to the political timetable, it is unlikely that the draft could be passed into law before late 2009. The Anti-Corruption Court has been a key link in the GOI's efforts to tackle corruption and warrants a renewal of its important mandate. END SUMMARY.

KEY COURT'S MANDATE UP FOR RENEWAL

**12. (U)** A key court needs to have its mandate renewed by the Indonesian legislature. The Anti-Corruption Court (ACC) was created in tandem with its partner body, the Corruption Eradication Commission (KPK), to try high-profile corruption cases as well as cases which incur a state loss of over USD \$100,000. Since their founding in 2002, the KPK and the ACC have been a solid success and are repeatedly mentioned as Indonesia's most trustworthy institutions in public polls (ref B). (Note: For a big picture review of Indonesia's anti-corruption effort, please see ref A, which includes a discussion of the effectiveness of the ACC and the KPK.)

**13. (U)** In December 2006, the Constitutional Court ruled that the Anti-Corruption Court (ACC) was unconstitutional due to

flaws in the original legislation and the potentially differential treatment defendants might receive in the ACC versus the general courts (ref C). The ACC was granted a three-year grace period to continue operation, pending new DPR legislation. A Ministry of Law and Human Rights drafting team submitted the draft bill to the President for approval in 2007. After initially sending the bill back to the Ministry for further revisions, President Yudhoyono sent his Cabinet-approved version of the bill to Parliament on August 11.

#### DPR TO DEBATE DRAFT LEGISLATION

14. (U) Deliberations on the bill in the DPR are slated to begin on October 15. The draft bill has two critical variables: the number of courts and the ratio between career and non-career (so called ad-hoc) judges. The Ministry's draft law would establish five "model" Anti-Corruption Courts in Jakarta, Medan, Semarang, Surabaya, and Makassar. In the version approved by the Cabinet, however, ACCs would be established in the district court of every provincial capital--34 courts in all. The specialized nature of the courts could be rendered meaningless with this arrangement as there may not be a sufficient number of qualified justices to staff 34 ACCs, experts assert. Judges in the ACC's district courts would not necessarily understand the issues and could be easily influenced by political or economic considerations, according Prof. Romli Atmasasmita, chief drafter of the Ministry of Law and Human Rights' version of the legislation.

15. (U) The ad-hoc to career judge ratio, currently 3 to 2 respectively, is seen as critical to court independence. In

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the Cabinet approved bill, the Supreme Court would determine the composition and ratio of ad hoc to career judges, undermining the current independence of the body. According to Atmasasmita and other ACC contacts, the majority of ad hoc justices on panels hearing cases have created a more independent and less corrupt judicial body in the current ACC. The current Anti-Corruption Court has ruled in favor of the KPK in 100% of the cases (some civil society groups express concern over this high conviction rate). He clarified that the Supreme Court, which appoints all career judges to the district courts, regards this non-career, ad hoc judge majority as an affront to its judicial authority.

#### ANTI-CORRUPTION MOMENTUM CONTINUES

16. (U) Mission contacts are optimistic that the draft ACC legislation will become law by December 2009. Even though the DPR is scheduled to begin deliberations on the ACC bill in mid-October, Atmasasmita and other court insiders believe that the legislation will not be passed until after the 2009 national elections. Atmasasmita, and anti-corruption watchdog groups, have stated privately and in the press that they hoped that the recent KPK investigations into former and current members of the DPR would not stall the legislation.

17. (U) The pending legislation has not slowed down the work of the KPK or the ACC. The KPK continues to investigate and successfully prosecute high-level government officials for bribery and corruption using the ACC. In the past six months, the KPK has arrested six Members of Parliament--from both ruling coalition and opposition parties--in separate scandals. On September 24, President Yudhoyono expressed his support for the anti-corruption drive in his reaction to the Transparency International release of its corruption perception index (which showed that Indonesia had slightly improved its relative standing). He again underscored his commitment to reform and the ongoing campaign to eradicate corruption.

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